IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6440 of 1992

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRAVINKUMAR KANJIBHAI CHOUDHARI - Petitioner(s)

Versus

COMMISSIONER OF HIGHER EDUCATION & 1 - Respondent(s)

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Appearance :

MR.KIRIT R CHAUDHARI for Petitioner(s) : 1,
MS REETA CHANDARANA, AGP for Respondent(s) : 1,
MR KANUBHAI I PATEL for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 28/02/2006

ORAL JUDGMENT

1.In the present petition, the petitioner has challenged an order dated 19-02-1992 by which the request of the petitioner for being granted compassionate ground came

to be rejected.

2. The father of the petitioner who was employed by the respondent died in harness on 25-09-1990. The deceased left behind him a family consisting of his widow and two sons. The petitioner applied for compassionate appointment on 12-11-1990. Such request came to be turned down by the impugned order dated 19-2-1992.

3. The petitioner has not given details of the family pension and other death-cum-retirement benefits being received by the family.

4. The learned AGP Ms. Reeta Chandarana however, stated under written instructions that at the relevant time, family was receiving family pension to the tune of Rs.1294/-. In addition thereto family must have received gratuity as well and other retirement benefits. The petitioner has not produced on record the liabilities of the family, if any. In that view of the matter, decision of the authorities to decline appointment on compassionate ground to the petitioner cannot be found fault with. It is well settled by series of judgements of Hon'ble Supreme Court that

compassionate appointment is an exception to the general rule of public employment to be resorted to as enshrined in the Articles 14 and 16 of the Constitution of India. In facts of the present case when the family was not in distress, the decision to refuse compassionate appointment calls for no interference. The petition is filed in the year 1992. The employee expired in the year 1990. In the year 2006, the decision of the Government other-wise also calls for no reversal.

5. In the result petition fails and is therefore, hereby rejected. Rule is discharged with no order as to costs.

(Akil Kureshi,J.)

(raghu)